



STATE OF INDIANA

MICHAEL R. PENCE, Governor

**PUBLIC ACCESS COUNSELOR
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May 18, 2015

Mr. John M. Jones
1601 Business Center Court
Louisville, KY 40299

Re: Formal Complaint 15-FC-141; Alleged Violation of the Access to Public Records Act by the Harrison County Sheriff's Department

Dear Mr. Jones,

This advisory opinion is in response to your formal complaint alleging the Harrison County Sheriff's Department ("Department") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Department has not responded to your complaint despite an invitation to do so on April 23, 2015. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on April 22, 2015.

BACKGROUND

Your complaint dated April 22, 2015 alleges the Harrison County Sheriff's Department violated the Access to Public Records Act by improperly charging a \$100 copy fee.

You sent a request for documents on April 1, 2015, seeking records related to an accident that occurred on December 4, 2014. You were informed that thirty-five (35) photographs were taken and that a fee of \$100 was requested. You were told the department policy charged \$5.00 per photograph, up to \$100. You contend this fee is improper.

ANALYSIS

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." See Ind. Code § 5-14-3-1. The Harrison County Sheriff's Department is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy the Department's disclosable public records during regular



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business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14- 3-3(a).

As for the monetary charge, Ind. Code § 5-14-3-8(f) holds if another state statute sets a fee, that particular statute would override the APRA. Ind. Code § 9-29-11-1(a) sets an accident report fee schedule providing for no less than \$5.00 for inspection and copying of the record. It appears as if Harrison County Sheriff's Department charges \$5.00 per photo contained in an accident report. As the photos are ostensibly part of the accident report file, it would be covered by the provision in Title 9. That being said, as it is my statutory duty to advise public officials on best practices regarding public access, I suggest that \$5.00 per photo is prohibitive to access and such a fee should be reexamined in a light more favorable to access and transparency.

Regards,

A handwritten signature in black ink, appearing to read "LH Britt", written over a horizontal line.

Luke H. Britt
Public Access Counselor

Cc: Mr. Rodney Seely, Sheriff